

85<sup>th</sup> Legislative Session – 2010

Committee: Joint Appropriations

Tuesday, February 02, 2010

P - Present  
E - Excused  
A - Absent

Roll Call

P Ahlers  
P Burg  
P Bartling  
P Dennert  
P Hundstad  
P Wismer  
P Novstrup (Al)  
P Brown  
P Carson  
P Deadrick  
P Peters  
P Wink  
P Haverly  
P Putnam  
P Hunhoff (Jean), Chair  
P Tidemann, Vice-Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Jean Hunhoff.

**State Auditor**

State Auditor Richard Sattgast appeared before the Committee to present the agency budget. For FY11, the Governor recommends \$1,205,943 from the general fund and 18.0 FTEs. This is a decrease of \$6,058 (minus 0.5%) from FY10.

Mr. Sattgast said changes to the budget included:

- an increase of \$6,516 in personal services for health insurance,

- a reduction of \$1,734 in supplies & materials due to less postage and printing costs, and
- a \$10,840 reduction in capital outlay based upon a review of software needs.

Mr. Sattgast spoke to the \$100,000 Grants & Subsidies line item added to the budget in FY10 to administer money for the "Equal Access to our Courts Commission". Revenue for this Commission is collected through filing fees for court services and is deposited once a month by the Secretary of Revenue. The balance at the end of January 2010 was \$30,900.

Representative Putnam asked for clarification on the zero-based Capital Outlay line item. Mr. Sattgast said the Governor had recommended this reduction pending review of future software needs. The agency's public website needs new software but will be changed at the time a new State Auditor is elected. Representative Putnam asked why no increase was shown for BIT fees. Ms. Lee DeJabet, State Social Security Administrator, said the requested BIT increase was taken out in the Governor's recommended budget.

Senator Hunhoff asked about the reduction in contractual services. Mr. Sattgast said the agency's request was for dues to the National Association of State Comptrollers. The dues are broken out between 3 agencies, State Auditor, Legislative Audit and the Treasurer's Office. Ms. DeJabet said the Auditors Office eliminated the dues because of requests for budget reductions. The dues were paid last year with savings from other items such as travel.

### **Top Priorities**

Mr. Sattgast said their top priorities were compliance with checks and balances within the office and the IRS/Social Security 218 agreement. Noncompliance with that agreement can lead to fines and lawsuits.

### **State Treasurer**

Vern Larson, State Treasurer appeared before the Committee to present the agency budget. **Document No. 1** was distributed. The Governor requested \$3,404,107 and 9.0 FTEs which is the same as budgeted in FY10 before the addition of \$2,896 for health insurance. The total request includes \$508,556 from the State General Fund and \$2,895,551 from other funds.

### **Highest FY10 Priorities**

- Treat taxpayers and other governmental peers with professionalism, ethics, respect, and courtesy.
- Deposit and invest state funds as quickly as possible.
- Implement electronic payment of fees.
- Continue to excel at return of unclaimed property.
- Manage state fiscal assets in an efficient and expedient manner.

Mr. Larson gave the Committee an update on remote deposit captures. This allows the Treasurer's Office to make deposits from offices and agencies of state government that are outside the location of the state contracted bank. The remote deposits give the state more immediate availability of funds with no transportation costs, no weather delays and bank charges are kept to a minimum because of no separate bank contracts.

The remote deposit has been implemented in the Treasurer's Office, the Department of Social Services Child Support Office and the Board of Regents. The Treasurer's Office scans into the state's main account an average of 500,000 checks/year, or 2,000/day. The Department of Social Services scans 250,000 checks/year and the Board of Regents another 100,000/year for a yearly total of 850,000 checks totaling \$465.3 million.

The electronic payment process with the Department of Revenue and US Bank has been implemented. The advantage to that process is time savings and faster access to payments as well as a reduction of handling time and costs that are associated with that process.

Mr. Larson told the Committee the Office of the Treasurer is currently holding \$8.7 million in unclaimed property. The interest earned on those funds goes to the General Fund and is used to try to find the rightful owner.

### **School & Public Lands**

Commissioner Jarrod Johnson appeared before the Committee to present the agency budget. The budget for the Office of the Commissioner of School and Public Lands is funded by the general fund and revenue generated from pesticide registration fees deposited in the Weed and Pest Control Fund. For FY2011, the Governor recommends a total appropriation of \$547,047 from the general fund, \$225,000 in other fund spending authority, and 7.0 FTEs.

#### **Major Expansions and Reductions**

- A shift in operating budgets of \$1,700 from Contractual Services to Supplies is necessary to cover additional expenses incurred from required auction mailings.
- The Governor recommends a decrease in central services – space billing rates in the amount of \$209.

In FY09 the office received over \$4.8 million in payments from 2,877 surface leases on 750,000 acres and \$4.7 million from mineral, oil and gas royalty payments.

Senator Hunhoff asked for an explanation of the lease process. Commissioner Johnson said a lease runs for a 10 year period. The first 5 years are bid at a public auction; once that 5 year

period is over the lease holder has the option of renewing that parcel for another 5 years at the minimum price.

Representative Wismer asked for an update on dam inspections. Commissioner Johnson told the Committee the office had budgeted \$250,000 for dams with the goal of inspecting 35 per year and repairing 5 per year. Commissioner Johnson said the 5 selected are the most in need of repair. Senator Hunhoff asked if any money was allocated in FY10 for repair. Commissioner Johnson said \$5,000.

Senator Haverly asked how many dams fall under the School & Public Lands and Game, Fish & Parks matrix. Justin Ohleen, Deputy Commissioner, said approximately 90 for both agencies. Commissioner Johnson said the Department of Environment and Natural Resources inspects the dams and does combine dams from both agencies to better utilize their time.

Representative Tidemann asked about the increases in oil and mineral revenue. How do you come up with a dollar amount and when was it last changed. Commissioner Johnson said the royalty is 12.5%. School & Public Lands sets the rate and has not changed it in a number of years. South Dakota has roughly 100 oil wells and 40+ gas wells. The rate has been the same for a number of years in order to encourage people to come to South Dakota to look for oil and gas.

Senator Ahlers asked if it was South Dakota's policies or our rate that brings people to South Dakota. Commissioner Johnson said South Dakota's regulations are not burdensome but strict enough to require the company to come before the Board to make changes. The time to change the royalty rate would be when South Dakota sees more activity.

### **Secretary of State**

Secretary of State Chris Nelson and Teresa Bray, Deputy Secretary appeared before the Committee to present the Secretary of State's budget. Funding comes from the State General Fund, the federal Help America Vote Act, and revenue generated from the operation of the Central Filing System (CFS) of Uniform Commercial Code (UCC) documents.

For FY11, the Governor recommends total funding of \$1,007,237 from the State General Fund, \$3,130,575 federal, and \$453,940 from other funds, and 15.6 FTEs. The total recommendation of \$4,591,752 is an increase of \$29,985 (0.7%) from FY10.

### **Highest FY10 Priorities**

- Implementation of the Annual Report Online Filing Program.

### **Expansions/Reductions**

- Move \$17,928 in federal funds from grants & subsidies to personal services, saving general funds for existing duties with the balance to be used for a proposed P/T Elections Clerk at \$7,226. Addition of \$5,430 for office wide health insurance increases brings the net personal services to an increase of \$12,656. (Agency reports the grants and subsidies request is the amount that is available for reimbursement to the counties should their expenses justify the reimbursement. Agency maintains this minimal reduction will not impact the reimbursements to the counties.)
- Expansion of computer services is due to increase in network CICS and Enterprise surcharges from BIT, as well as other network and batch reporting services.
- Expansion is reported to be due to printing the expanded version of the 2011 Legislative Manual as currently required by statute.

The Secretary of State's Office estimates revenue for FY10 will be \$1.4 million higher due to increases in fees passed by the Legislature in 2009.

Mr. Nelson spoke to the proposed changes in the FY11 budget:

- An increase of \$8,650 in Supplies/Materials – Mr. Nelson told the Committee that line item could be decreased by \$6,000 if HB1010 passes. This bill would revise the requirements for the compilation and printing of the legislative manual referred to as the blue book.
- An increase of \$26,607 in Contractual Services – Mr. Nelson is proposing that that be reduced to negative \$33.00. This reduction is related to the CICS-CPU Production Cost Analysis. Mr. Nelson provided a graph (**Document No. 2**) detailing BIT charges for mainframe usage between June 2007 and December 2009. The graph showed a marked increase beginning in June 2008. Mr. Nelson told the Committee despite efforts of his office, the increased charges have never been explained by BIT and the issue remains unresolved. In the past few months the charges have dropped and Mr. Nelson is hopeful they will remain at the level. However, if those charges would increase once again, the Secretary of State's Office would be back looking for supplemental funding.

Mr. Nelson said the two proposed reductions would result in a net decrease of \$2,655 in the office budget.

Senator Haverly asked for additional information from BIT billings from June 2008 to present that show trends for other things BIT bills the office for. Mr. Nelson said they did not see spikes in other billing areas and had also checked with other agencies. Representative Putnam asked that the costs associated with the spike be included in the requested information.

Mr. Nelson said the ever increasing number of federal mandates in the area of elections and campaign finance requirements have had an impact on personnel in his office. To respond to the increase in federal requirements and to ensure the election processes are addressed, an increase of 0.3 federally funded FTE is being requested. To offset the increase in the federal personal

services expenses, the federal grants and subsidies expenses have been reduced by an equal amount. Additionally, it is requested that the General Funds personal services expenses be reduced by \$10,702.

Senator Hunhoff asked if this FTE would be a fulltime employee. Mr. Nelson said the Office has federal money that can only be spent on federal election issues, and because they have always been very conservative with these funds they would be able to pay for the 0.3 FTE for years to come. The current balance in that fund is \$11 million of which \$3 million is allocated out to counties. Senator Hunhoff asked if those dollars are not used do they just stay in that fund. Mr. Nelson said yes.

### **Public Utilities Commission**

**Mr. Dustin “Dusty” Johnson**, Commissioner of the Public Utilities Commission (PUC), introduced the staff members present at the meeting – **Ms. Cindy Kemnitz**, Finance Officer; **Mr. Larry James**, Director of the One Call Board; **Ms. Kara Semmler**, Attorney; **Mr. Jim Mehlhaff**, Director of the Grain Warehouse Division; **Mr. Nathan Solem**, Lead Pipeline Safety Inspector; **Ms. Deb Gregg**, Director of the Consumer Affairs Division; **Ms. Patricia Van Gerpen**, Executive Director, **Mr. Steve Kolbeck**, Commissioner; and **Mr. Gary Hanson**, Commissioner.

Distributed was the PUC “2009 Highlights” (**Document #3**) and the “Top Priorities” (**Document #4**).

Commissioner Johnson listed three drivers of the PUC. They include:

- Wind development in South Dakota – continues to increase at stable rate;
- Pipelines – Keystone Pipeline and Keystone Exel Pipeline; and
- Rate Cases – adjustments to utility rates.

Commissioner Johnson briefed the committee on the agencies top priorities. They include:

- Electric and Natural Gas;
- Grain Warehouse;
- Pipeline Safety;
- South Dakota One Call Board;
- Telecommunications; and
- Consumer Affairs.

Senator Hunhoff requested a list of the outcomes for the 11 complaints filed with the South Dakota One Call Board.

In response to Representative Wink's question, Commissioner Johnson said that the PUC will provide a copy of the TransCanada Order that gives an overview of how the pipelines are intended to function and the impact.

#### FY11 Budget Request

The Governor recommends a total appropriation of \$4,141,534 and 33.2 FTEs for the Public Utilities Commission for FY11. This dollar amount consists of \$514,199 from the general fund, \$351,905 in federal funds, and \$3,275,430 in other funds. The Governor's recommendation is an increase from FY10 in general funds of \$1,843, in federal funds of \$255,509, and in other funds of \$1,870.

#### Administration

The Governor recommends a total appropriation for Administration of \$346,181 in general funds for FY11. The Governor's recommendation is an increase of \$1,081 and 3.0 FTEs from FY10.

Ms. Kemnitz stated that the increase is to cover the employer paid portion of the state health insurance plan.

#### Grain/Warehouse Division

The Governor recommends a total appropriation for the Grain/Warehouse Division of \$354,717 and 5.5 FTEs for FY11. This dollar amount consists of \$168,018 in general funds and \$186,699 in other funds. The Governor's recommendation is an increase of \$762 in general funds and a decrease of \$371 in other funds from FY10.

Representative Peters asked about the funds for the capital outlay. Mr. Mehlhaff responded that the funds would be used to purchase new software and software package. The software will give the PUC the ability to look deeper into the inspection process and allow interfacing with grain handlers' software. The PUC will be able to further examine the actual contract portfolio and receive a short-term working summary. This will be a big step forward in the inspection process.

In response to Representative Peter's question, Ms. Kemnitz stated that the software and software package will be purchased with \$6,500 in general funds and \$4,300 in other funds.

Representative Putnam asked if the program will increase the Bureau of Information and Telecommunications (BIT) billing charges. Mr. Mehlhaff responded that the software is not supported by BIT. The software is developed by a specialized company in Illinois and the maintenance cost will be \$1,600 annually. Ms. Kemnitz commented that PUC already has all the computers needed and new computers will be replaced on the replacement cycle.

Senator Hunhoff requested a fee schedule for BIT billing increases.

#### Rate Case/Utility Investment Fund

The Governor's recommended budget for the Rate Case/Utility Investment Fund, which is an informational item, is \$259,991 from other funds and no FTEs. This is the same amount as appropriated in the FY10 budget.

Senator Hunhoff asked about the budget increase from FY09 to FY10. Commissioner Johnson commented that it is difficult to budget since the state law allows the for the PUC to recoup costs from the Utility Investment Fund for rate cases that go over the maximums, which are set in statute.

#### Pipeline Safety

The Governor's recommended FY11 appropriation for the Pipeline Safety Division, which is an informational item, is \$197,481 and 2.3 FTEs. This dollar amount consists of \$95,072 from federal funds and \$102,409 from other funds. This is a decrease of \$1,324 in federal funds and an increase of \$2,226 in other funds from the FY10 budget.

The recommendation includes an increase of \$1,176 in federal fund expenditure authority and \$326 in other fund expenditure authority for the employer paid portion of the stat health plan. A decrease of \$2,500 in federal fund expenditure authority and an increase of \$1,900 in other fund expenditure authority is recommended for operating expenditures in travel, contractual services, and capital outlay.

#### One Call Notification Board

The Governor's recommended FY11 appropriation for the One Call Notification Board, which is an informational item, is \$673,349 in other funds and 0.1 FTE. This recommendation is an increase of \$6,057 from FY10.

Ms. Kemnitz stated that the recommendation is comprised of;

- An increase of \$65 in other fund expenditure authority for the employer paid portion of the state health plan;
- A decrease of \$308 in other fund expenditure authority to reflect actual expenses in personal services;
- A decrease of \$7,700 in other fund expenditure authority for travel; and
- An increase of \$14,000 in other fund expenditure authority for contractual services;
  - o Decrease of consultant fees - \$12,500;
  - o Decrease for audit fees - \$500; and
  - o Increase for anticipated call tickets for FY11 - \$27,000.

#### Do Not Call List

The Governor's recommended FY11 appropriation for the Do Not Call List Division, which is an informational item, is \$53,548 in other funds - a decrease of \$2,770 from FY10. The Governor is also recommending 0.4 FTE, which is the same as FY10.



Ms. Kemnitz stated that the recommendation is comprised of:

- An increase of \$130 in other fund expenditure authority for the employer paid portion of the state health insurance plan;
- A decrease of \$3,750 in other fund expenditure authority for contractual services; and
- An increase of \$850 in other fund expenditure authority for supplies and materials.

Senator Hunhoff asked about the 0.4 FTEs budgeted for the Do Not Call List. Commissioner Johnson stated the division does not have a person working there, but staff time spent working on complaints is billed to this division.

#### Fixed Utilities

The Governor's recommended budget for the Fixed Utilities Division, which is an informational item, is \$2,256,267 and 21.9 FTEs. This dollar amount consists of \$256,833 in federal funds and \$1,999,434 in other funds. The Governor's recommendation is an increase of \$256,833 (100.0%) in federal funds, a decrease of \$3,272 (0.2%) in other funds, and an increase of 3.0 FTEs (15.9%), from FY10.

Distributed to the committee was a handout entitled "U.S. department of Energy Stimulus Funding" (**Document #5**).

Commissioner Johnson stated that there is a federally funded mandate that placed new burdens on state PUC commissions. The federal funds do not require a state match. The intent is to supplement, and not supplant, normal state appropriations for the PUC staffing and limited range of activities.

The South Dakota PUC has \$770,498 available for a three to four-year time period. The PUC intends to hire three staff members, for a year-year commitment, to help with the mandate. The PUC would like to recruit the following positions:

- Regulatory analyst (electrical engineer);
- Regulatory analyst (accountant); and
- Regulatory attorney.

Commissioner Johnson noted that stimulus funds may be used to train both existing staff and new employees on the American Recovery and Reinvestment Act issues.

Three areas of significant opportunities in the energy sector can be addressed with the stimulus funds. Commissioner Johnson explained the areas. They include:

- Building a modern transmission system;
- New technologies and tools; and
- Energy investment cycle and impact on consumers.

In response to Representative Tidemann's question, Ms. Kemnitz responded that the stimulus funds need to be spent by the end of the 2013 calendar year.

Representative Tidemann asked about a timeframe as to hiring and training new FTEs. Commissioner Johnson responded that if the Legislature and Governor approve the stimulus funding, the PUC would like to have the FTEs start in July. A detailed timetable will be provided to the committee.

In response to Senator Hunhoff's question, Commissioner Johnson stated that the South Dakota PUC has been awarded the stimulus funds by the federal government, but the PUC does not have the authority from the state to use the funds.

Ms. Kemnitz informed the committee that the division has budgetary changes. They include:

- An increase of \$6,178 in other fund expenditure authority for the employer paid portion of the state health insurance;
- Increase of \$222,233 in federal fund expenditure authority for personal services and 3.0 FTEs for the 1 attorney and 2 electrical specialists related to the American Recovery and Reinvestment Act funds;
- An increase of \$34,600 in federal fund expenditure authority for contractual services for training related to the American Recovery and Reinvestment Act funds; and
- A decrease of \$9,450 in other fund expenditure authority for operating expenses in contractual services, supplies, and capital outlay.

In response to Senator Hunhoff's question, Ms. Kemnitz responded that all costs incurred that are related to the federal mandate can be recovered.

### **South Dakota Housing and Development Authority**

**Mr. Mark Lauseng**, Director of the South Dakota Housing and Development Authority (SDHDA), distributed a document outlining the FY11 budget request. (**Document #6**) He told the committee that SDHDA was established in 1973 as a public corporation to encourage the investment of private capital in affordable housing. One method used in raising this capital was through the sale of tax exempt bonds sold to the private market.

#### Governor's House Program

For FY11, the SDHDA has an overall budget decrease in the amount of \$416,907. Because of lower income qualifications for the Governor's House Program, which were negotiated with the Manufactured Housing and Home Builders Industry and the tightening of the credit market due to the financial crisis.

Senator Brown asked about the reduced qualifications. Mr. Lauseng responded that a bill in the 2007 Legislative Session lowered the qualifications. Sales of Governor Houses were down **for**

over two years. The qualifications were slightly increased in December 2008 at the time of the financial crisis. He does not think the qualifications will be lowered again because it is difficult for people with lower income to qualify for loans.

#### First-time Homebuyer Program

One of the largest and most recognized program is the First-time Homebuyer Program. Since the program started, a total of 70,476 loans in the amount of \$4.3 billion have been purchased. In FY09, SDHDA purchased 1,709 homebuyer loans for over \$181 million. Because of the financial crisis, these numbers actually resulted in a down year in production for this program. The decline in the national housing market had a negative impact on mortgage revenue bonds and the first-time homebuyer program. Many Housing Finance Agencies suspended their programs altogether, some not doing any loans for over a year. The SDHDA was able to continue the program, but with bond yields at higher levels. The program was not always at a rate that was favorable to the conventional market. Things have improved in FY10 and SDHDA is at levels seen before 2008.

#### Housing Tax Credit Program

Housing Tax Credits are a housing program under the Internal Revenue Service that was established in 1987. Under the program tax credits are sold to investors and the proceeds of those sales are used as equity in affordable housing projects. Units are restricted to lower income households and rentals are also restricted with regards to affordability. Since 1987, the program has had a total of \$516 million in development costs in over 7,500 units across the State.

#### Home Investment Partnership Program

The HOME Program is a housing program funded through the US Department of Housing and Urban Development. The program provides low interest rate loans for rental and homeownership and provides funds for homeowner rehab and rental security deposits. Units and rents are also restricted with this program. Since 1992, the program has had a total of \$217 million in development costs in over 1,500 units.

#### Neighborhood Stabilization Program

Through the federal stimulus funding, SDHDA has received funding for several different programs. A total of \$19.6 million was received for the Neighborhood Stabilization Program. The purpose of this program was to revitalize neighborhoods that have been impacted by foreclosures or areas that are blighted. A total of \$13 million in applications have been approved under the program.

#### Tax Credit Assistance Program/Tax Credit Exchange Program

The Tax Credit Assistance Program and the Tax Credit Exchange Program were established to assist tax credit projects because funding through the program has been negatively affected because of the pricing of the credits in the financial market. South Dakota projects received a

total of \$5.4 million in Tax Credit Assistance and exchanged tax credits for a total of \$7.7 million.

#### Homeless Prevention and Rapid Re-housing

South Dakota received a total of \$3.2 million in Homeless Prevention and Rapid Re-Housing funds. These funds provide financial assistance and services to prevent individuals and families from becoming homeless or help those that are homeless. The funds have been allocated to nine different agencies across the state.

Mr. Lauseng stated, in response to Senator Hunhoff's question, that agencies can receive funds to provide services and help prevent people from becoming homeless. People can get funding to help remain in their apartment for up to eighteen months.

Senator Hunhoff requested a report of the stimulus money received.

#### Multifamily Housing Management

On behalf of the United States Department of Housing and Urban Development, SDHDA administers \$23 million in housing assistance payments each year in South Dakota. These programs provide the funds necessary to provide rental assistance for over 12,000 rental units in South Dakota. These individuals or families have incomes that range from \$0 to \$27,960 per year. Compliance reviews ensure the funds are used for the purposes intended. Staff also performs physical inspections to ensure that the units are both decent and safe.

Representative Wink asked about auditing of rental units. Mr. Lauseng responded that a staff of 5-6 people perform an annual review for each project.

Senator Hunhoff asked about people being removed from the Multifamily Housing Management program. Mr. Lauseng stated that people are able to remain on the program as long as the income does not go above the limits.

Representative Wink asked about the auditing process to verify income levels. Mr. Lauseng reported that there is management and employer verification. The Multifamily Housing Management program pays 30% of the income level, so the amount can change.

Representative Wismer asked about the Rural Development Multifamily Units. Mr. Lauseng stated that he will need to report back to the committee.

#### SDHDA Priorities

One of SDHDA's main priorities is to continue the First-time Homebuyer Program at an affordable rate. For 2010, SDHDA has taken advantage of the New Issue Bond Program. This program has Treasury purchasing \$192 million of the long term bonds for our First-time

Homebuyer Program; hopefully creating a low competitive interest rate for the Homeownership loans.

Another priority is to preserve rent-subsidized multifamily units. Many of these projects are getting to be 30 years old and have needed maintenance and upgrading. In addition, SDHDA would like to retain the housing assistance payment contracts with HUD as long as possible.

The federal stimulus funds require that the funds be committed and expended in a short period of time. The next couple of years, SDHDA will be committed to making sure that those funds are used effectively and in the proper manner.

Housing and Urban Development will be putting the administration of the Performance Based Contracts for Housing Assistance Payments out for bid in 2010. The SDHDA will make it a priority to retain these contracts within South Dakota to ensure the units remain decent and safe for low income families.

Senator Brown asked about the other funds. Mr. Lauseng responded that the other funds are raised through First-time Home Buyer commitment fees and other revenues.

Senator Brown asked about needed actions if the federal bonding authority is removed and the bonding market does not recover. Mr. Lauseng stated that the SDHDA does not have a long-term plan that addresses that issue. If it occurs, another funding source will need to be determined to continue the program.

In response to Representative Peters questions, Mr. Lauseng stated that the 5% the SDHDA received from the NSP for the First-time Home Buyers Program, a fee is assessed which is considered other funds and not federal funds. There are some federal programs which the SDHDA is able to charge fees for administration that is deposited in other funds.

MOTION: ADJOURN

Moved by: Brown  
Second by: Peters  
Action: Prevailed by voice vote.

Barb Bjorneberg and Lisa Shafer  
Committee Secretary

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Jean M. Hunhoff, Chair